

K. Philo. Dicarios. 352
18
THE
TRIUMPHS
OF
JUSTICE
OVER
Unjust Judges:

EXHIBITING,

- I. The Names and Crimes of *four and forty* Judges Hang'd in *one Year* in *England*, as *Murderers* for their corrupt Judgments.
- II. The Case of the Lord Chief Justice *Trefilian* Hang'd at Tyburn, and all the rest of the Judges of *England* (have one) banisht in *K. Rich. the 2ds Time*.
- III. The Crimes of *Empson and Dudley*, Executed in *K. Henry the 8th's Days*.
- IV. The Proceedings of the *Ship-money-Judges* in the Reign of *K. Charles the First*.
- V. Diverse other Presidents both *Antient and Modern*.

To which is added

- VI. The Judges OATH, and some Observations thereupon.

Humbly Dedicated to the

Lord Chief Justice Scroggs.

Discite Justitiam moniti, & non temnere Leges.

L O N D O N,

Printed for *Benjamin Harris*, at the Stationers Arms in the *Piazza* under the *Royal Exchange*. 1681.

THE TRIMMINGS OF JUSTICE

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Sir William Scroggs Kt.
LORD CHIEF JUSTICE
Of His Majesties Court of
KINGS-BENCH
 A T
WESTMINSTER.

I Know not to whom I could more properly *Dedicate* a Treatise of *this Nature*, than to Your *Lordship*, who is at Present Lord *Chief Justice* of *England*, and have set such *remarkable Copies* to inferior Magistrates. What is here offered, is neither *Prophecy* nor *Plaister*, *Lampoon*, nor *Romance*; but a clear *Mirroure* retreiv'd out of the *Closet* of wise *Antiquity*, In which future *Administrators* of publick *Justice* would do well to *Look*; For you know, My Lord, *Common-Law* runs much upon *Presidents*; And if a Man happen to have none of the *best Physiognomies*, there is no reason why he should straight grow *angry*; and fling stones to break *all the Looking-Glasses* he meets with, only because they represent the *true Figure* of the *Object*.

'Tis a *Priviledge* we *Scribblers* that *write for Bread*, hold by *Prescription*, to put any great *Bodies* name in the front of our Book. *Princes* have not been able to exempt themselves or their *Favourites* from the *Persecution* of *Dedications*, nor

is there (*I* humbly conceive) any *Rule* made in
Your Lordships *Court* to forbid them.

Suffer then, *I* beseech Your Lordship this *Address*
to remain a *Monument* to Posterity of the *Senti-*
ments this *Age* has of Your Lordships *Conduct* and
Merits, and witness to all the world how much its
Author, is

Westminster-Hall this
23. of Dec. 1680.

Your Lordships

most humble Servant

Philo-Dicaio.

THE

(I)

THE
TRIUMPHS OF JUSTICE
OVER

Unjust Judges, &c.

UNdoubtedly there may be, because there has been too often in the World; such a thing, such a sin, such a mischief, as **Corruption of Judges**, that is, when by means of Pecuniary, or other Bribes, or (which is all out as bad) Threatnings, Promises of Reward, Malice, Revenge, hopes of greater, or fears of being turned out of present Preferments, or any other ill motive; They that are appointed and Sworn to Administer *equal and impartial* Right and Justice, are wrap'd aside, or *Bias'd to serve a Turn*, or *Wreck a private Grudge*, or to *free the Guilty*, or *condemn the Innocent*; or to lean rather to the one side, than to the other; or wilfully to declare that to be *Law*, which they cannot but know is not so; or to adjudge punishments *disproportionate* to the Crimes that appear before them, or any the like *base, illegal* practises.

How odious this Vice is, to *God and Man*, as being equally destructive to Religion, and *Humane Society*; and how severely it has been heretofore punished, by both, may appear by The Ensuing Examples.

1. As to God, who is *Capitalis Justitiarius Celi & Terræ*, the Grand never-erring Justitiary of all the World. His Sacred Word prohibits nothing more positively, nor omplain of any thing lowder, or with more repeated importunities. *Thou shalt not rest the judgment of the poor in his cause; Thou shalt take no gift, for a gift blindeth the eye of the wise, and perverteth the words of the Righteous*, Ex. 23. 6 and 8 ver. *Thou shalt not rest judgment; thou shalt not respect persons, neither take a gift, &c.* Deut. 16. 19. *Woe unto them that justify the wicked for reward, and taketh away the righteousness of the righteous from him*, Isa. 5. 23. *A wicked man taketh a gift out of the bosome (tis done you see slyly, and in the dark) to pervert the ways of judgment*, Prov. 17. 23. *Woe unto yee who turn judgment into wormwood, and leave off righteousness in the earth*, Amos 5. 7. *The good man is perished out of the earth, and there is none upwright amongst men; They all lye in wait for blood; they hunt every man his brother as with a net, that they may do evil with both hands earnestly. The Prince asketh, and the Judge gapeth for a reward, and the great man uttereth his mischievous desire, so they wrap*

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it up: the best of them is as a briar, the most upright is sharper than a thorn-hedg, &c. Mic. 7. 2, 3, & 4 ver. with many of the like Texts.

2, As corrupt Judges are thus obnoxious to the *Curse of God*, so hath his Divine Providence not seldome Executed it upon them even in this world by the hands of *men*. Nor indeed is there any thing that can render *Kings* (Gods Vicegerents) more *Glorious*, or better establish any *state*, than to keep the Current of *Justice* clear and unsullied; and exemplarily to punish their Subordinate *Ministers*, and especially *Judges* that shall presume to *impoison* that Sacred *Fountain*.

Several Heathen Princes are Renowned for this wholesom severity. 'Tis said of *Alexander Severus* the Roman Emperour, that he had such an aversion and abhorrence of unjust Judges, that at the very sight of them he would vomit *Choler*, & was ready with his fingers to pluck out their eyes. *Theatrum Historicum*, f. 546.

The Mighty Monarch *Cambyfes*, King of *Persia*, finding that one *Sisammes* his Chief Justice (*Præses* our Author calls him in *Latin*) had receiv'd a *Bribe*, and for the same pronounced an unjust Sentence, forthwith caused him to be Executed, and curiously flead, and with his skin cover'd the Common Seat of Justice, and Constituted *Otaques* (the said *Sisammes*'s own Son) Judg in his Room; That so beholding daily thole Reliques of his justly-punisht Father; It might serve as a *Memento* to him to act more uprightly. *Chronicon Carionis* l. 2. p. 19.

But not to search so far off, --- our own Nation affords us (perhaps) the most notable and numerous Examples of *Royal Justice* in this kind of any in the world. For we find it Recorded in that Antient Law-Book, Entituled *The Mirrour of Justices* (most of which is said to be Compiled before the Conquest, and Augmented by the Learned *Andrew Horn* in the Reign of K. *Edw.* the 1st. and which is often Cited by the Famous Lord *Coke*, and to this day continues in good Repute amongst Lawyers) That King *Alfred*, a Renowned Saxon-Prince, who Governed this Realm about the Year of our Lord 900. did in one years space bring to Condign punishment, no fewer than four and forty of his Justices, (so the Law Terms thole we call Judges; and this was long before, either Justices of the Peace Establishd, or the Courts fixed at *Westminster*: But Justice was in those days Administred in the Countrey, in Neighbouring Courts, which yet (as appears by the nature of the offences alledged against them) had *ius vitæ & necis*, power of life and death, and so may properly be called

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called Judges) whose Names and particular Crimes here follow in the words of that worthy Author, p. 296. of the *French*, and p. 239 of the *English* Edition.

It is an abuse that Justices and their Officers who kill People by *false judgment*, be not destroyed, which King *Alfred* caused to be done, who caused **Forty four Justices** in one year, to be hanged as *Murderers* for their *false judgments*.

1. He hanged *Darling* because he judged *Sidulf* to death, for the retreat of *Edulf* his Son, who afterwards acquitted him of the Fact.

2. He hanged *Segnar*, who judged *Ulf* to death after sufficient acquittal.

3. He hanged *Cadwine*, because that he judged *Hachwy* to death without the *Consent of all the Jurors*; for whereas he had put himself upon a jury of *Twelve-men*; & because that three would have saved him against the *Nine* : *Cadwine* removed the *three* and put *others* upon the jury, upon whom *Hachwy* put not himself.

4. He hanged *Cole*, because he judged *Ive* to death when he was a *Mad-man*.

5. He hanged *Malme*, because he Judged *Prat* to death upon a false suggestion that he committed the felony.

6. He hanged *Athulf*, because he caused *Copping* to be hang'd before the Age of one and twenty years. [It was against Law then, but now *nequitia supplet Aetatem*.]

7. He hanged *Markes*, because he judged *Dwring* to death by twelve men that were not sworn.

8. He hanged *Ostline*, because he judged *Seaman* to death by a false Warrant, grounded upon false suggestion, which supposed *Seaman* to be a Person in the warrant, which he was not.

9. He hanged *Billing*, because he judged *Leston* to death by fraud : In this manner, he said to the People, *fit all ye here but he who killed the man*, and because that *Leston* did not fit with the other, he commanded him to be hanged, and said that he did assist, where he knew he did not assist to kill the Party.

10. He hanged *Seafoul*, because he judged *Ording* to death; as not answering.

11. He hanged *Thurston*, because he judged *Thurgner* to death by a Verdict of Inquest, taken *ex officio*, without *Issue* joyned.

12. He hanged *Athelston*, because he judged *Herbert* to death for an offence not mortal.

13. He hanged *Rambold*, because he judged *Leschild* in a Case not notorious, without Appeal, and without Indictment.

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14. He hanged *Rolf*, because he judged *Dunston* to dye for an escape out of prison.

15. He hanged *Frebern*, because he judged *Harpin* to dye, whereas the Jury were in doubt of their verdict, for in doubtful cases one ought rather to save than condemn.

16. He hanged *Seabright*, who judged *Athebrus* to death, because he had discharg'd one that had given a false judgment in a Case Capital.

17. He hanged *Hale*, because he saved *Tristram* the Sherif from death, who took to the Kings use from another goods against his will, for as much as any such taking from another against his will, and Robbery hath no difference.

18. He hanged *Arnold*, because he saved *Bailifs*, who robbed the people by colour of *Distresses*; some by selling *Distresses*, such, and others by extortion of Fines; because between such tortious Acts and Robbery there was no difference.

19. He hanged *Erkinwald*, because he hanged *Frankling*, for nought else, but because he taught to him who vanquished him by Battle-mortal to say the word *Cravant*.

20. He hanged *Bermond*, because he caused *Garbot* to be beheaded by his judgment in *England*, for that, for which he was outlaw'd in *Ireland*.

21. He hanged *Alkman*, because he saved *Cateman* by colour of *Disseisin*, who was Attainted of *Burglary*.

22. He hanged *Saxmond*, because he hanged *Barold* in *England* where the Kings Writ runneth for a fact which he did in the same Land, where the Kings Writ did not run.

23. He hanged *Alflet*, because he judged a Clerk to death over whom he had no Cognizance.

24. He hanged *Piron*, because he judged *Huntiny* to death; because he gave judgment in Appeal before the forty days pendant; the Appeal by a Writ of false judgment before the King.

25. He hanged *Declani*, because he caused *Eldons* to be hanged, who kill'd a man by misfortune.

26. He hanged *Oswin*, because he judged *Fulcher* to death out of Court.

27. He hanged *Mucdin*, because he hanged *Helgrave* by warrant of Indictment not special.

He hanged *Horn*, because he hanged *Simin* at days forbidden.

29. He hanged *Wolmer*, because he judged *Grant* to death by colour of a Larceny, of a thing which he had received by Title of Bailment.

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30. He hanged *Therberne* because he Judged *Osgot* to death for a Fact whereof he was *Acquitted before* against the same Plaintiff; which Acquittance he tendred to averre by *Oath*, and because he would not averre it by *Record*, *Therbern* would not allow of the Acquittal which he tendred him.

31. He hanged *Wolston* because he adjudged *Howbert* to death at the suit of the King, for a fact which *Howbert* confessed, and of which the King gave him *his Pardon*, but he had no Charter thereof; nevertheless he vouched the King to *Warrant* it, and further tendred to averre it by Enrollment of the Chancery.

32. He hanged *Oskitell* because he Judged *Cutlinge* to death by the Record of the *Coroner*, where by Replication allowable, the Plea did not hold; And the Case was such, *Cutlinge* was taken and Tortured so much, as he confessed he had Mortally offended, only to be quitted of the pain; and *Oskitell* adjudged him to death upon such his Confession which he had made to the *Coroner*, without trial of the truth of the Torture or the Fact. And further the said King caused the *Coroners* and *Officers* Accessories to be apprehended who hanged the people, and all those that might have hindred the false Judgment, and did not hinder the same in all cases: For he hanged all the Judges who had falsely saved any man guilty of Death; or hath falsely hanged any man against Law, or any reasonable Exception.

He hanged the Suitors of *Caleyot*, because they had adjudged a man to death in a case not notorious, although he were guilty thereof; for no man can Judge within the Realm but the King, or his Commissaries, except those Lords in whose Lordships the Kings Writ doth not run.

He hanged the Suitors of *Dorcester*, because they Judged a man to death by Jurors in their Liberty for a Felony done out of it, and whereof they had not the *Consuance* by reason of forraignty.

He hanged the Suitors of *Cirencester*, because they kept a man so long in Prison, that he dyed in prison, who would have acquitted himself by *Forraigners* that he offended not Feloniouly.

[Tis supposed these Suitors of each place were Four in Number, which compleats the number of 44. Hanged in all.]

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In his time also the *Suitors of Doncaster* lost their Jurisdiction, besides other Punishments, because they held Pleas forbidden by the Customs of the Realm to Ordinary Judges and Suitors to hold.

In this time *Colgrin* lost his Franchise of *Enfangthief*, because he would not send a Thief to the common Gaole of the County, who was taken within his *Liberty*, and not Bailable.

In this time *Buttolph* lost his view of *Frankpledges* because he charged the Jurours with *other Articles* than those which belonged to the *View*, and *Amerced* people in personal Actions where one was not to be amerced by a pecuniary Punishment: And accordingly he caused punishments of Death to Criminal Judges for wrongful mortal Judgements, and so he did proportionably for wrongful Judgements of a lesser nature: As Imprisonment for wrongful Imprisonments, and and like for like with the other Punishments; for he delivered *Thelweld* to Prison, because he Judged men to Prison for Offences where they ought not to be Imprisoned.

He Judged *Lithing* to Prison because he imprisoned *Herbote* for the Offence of his *Wife*.

He Judged *Rutwood* to Prison because he Imprisoned *Old* for the Kings *Debt*.

[Note, In those days people were not to be Imprisoned for Debt, but only their Goods distrain'd.]

On the other side, he Cut off the Hand of *Haulf*, because he saved *Armorks* Hand, who was Attainted before him, that he had Feloniously wounded *Richbold*.

He Judged *Edulfe* to be wounded, because he Judged not *Arnold* to be wounded, who had Feloniously wounded *Aldens*.

In lesser Judgments he did not meddle with the Judgments; but Disinherited the Justices, and Removed them according to the Points of those Statutes, where he could understand that they had Transgressed their Jurisdiction, or the Bounds of their Delegacy or Commission; or had concealed Fines or Amerciaments or ought that belonged to the King, or had Released or *Increased any Punishment contrary to Law*, or procured Pleadings without Warrant, &c.

Thus far *Horns Mirrour*.

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Now that this *Alfred* was one of the *Wiseſt* and moſt Renowned Kings that ever this Land was happily Governed by, appears, as well by the *Eulogies* given him by the Ancients, as thoſe Encomiaſtick Verſes Dedicated to his Memory, by a preſent *Ingenious Courtier*, Sir *Winston Churchill*, Kt. in his *Diri Britannici*, Fol. 140.

*Who would not follow him into the Field,
Who cannot chooſe but Conquer tho' he yield?
Whoſe Sword cut deep, yet was his Wit more keen,
Some Fence 'gainſt that; But this did wound unſeen.
To thee is due (Great Elfrid!) double praiſe;
To thee we bring the Laurel and the Bayes.
Maſter of Arts and Arms, Apollo ſo
Sometimes did uſe his Harp, ſometimes his Bow,
And from the other Gods got this Renown
To Reconcile the Gauntlet to the Gown.
But who did e're with the ſame Sword like Thee,
Execute Juſtice, and the Enemy?
Keep up at once the Law of Arms and Peace,
And from the Camp Iſſue out Writs of Eaſe.*

The next Engliſh Prince of Renown before the *Norman Conqueſt*, was King *Edgar*, about the year 960. Amongſt whoſe Noble Acts 'tis recorded as none of the leaſt memorable, that in his Circuits and Progreſſes through the Countrey, he would take Account of the Demeanour of his Lords, and eſpecially of his Judges, whom he ſeverely Punished, if he found them Delinquents: *Bakers Chron.* Fol. 11.

Nor have the beſt and wiſeſt of our Princes ſince the Conqueſt, been leſs ready to give up Ill Judges to juſt Punishment, nor our *Engliſh Parliaments* wanting to bring them to it.

In the year 1290. being (ſaith *Walsingham*, p. 54.) the 17th year of *Edm. 1.* *Juſtitiarios ſerè omnes de falſitate deprehensos a ſuo Officio depoſuit ipſos juxta merita puniens gravi Multâ.* He finding almoſt all his Judges guilty of Corruption, put them out of their places, and Punished them according to their Demerits with heavy Fines. Which the Lord *Cook* in the Second part of his *Inſtitutes*, Fol. 508. likewise takes notice of, and tells us, That this was done by a Parliament held after the Feaſt of
St.

St. Hillary, and only two Judges scap'd scot-free. But how severe the Fines of the other Delinquents were, appears in *Bakers Chronicle*, fol. 100. Sir Ralph de Hengham (says he) Chief Justice of the *Kings-Bench*, for Corruption was Fined 7000 Marks; Sir John Lovetot one of the Justices of the *Common Pleas* 3000 Marks; Sir William Brompton 6000 Marks; Sir Solomon Rochester 4000 Marks; Sir Richard Boyland 4000 Marks; Sir Walter Hopton 2000 Marks; Sir William Saham in 3000 Marks; Robert Lithbury Master of the Rolls in 1000 Marks; Roger Leicester in 1000 Marks; Hugh Bray Escheator and Judge for the Jews, 1000 Marks; But Sir Adam Stratton Chief Baron of the *Exchequer* (who it seems had been a notable Bribe-fingerer) four and thirty Thousand Marks, [*A prodigious Summe almost 400 years ago!*] And Sir Thomas Wayland Chief Justice of the *Common-Pleas* being found the greatest Offender of all, was Attainted of Felony for taking of Bribes, and his Lands and Goods Forfeited: as appears in the *Pleas of Parliament*, 18 *Edw.* 1. And he was also Banisht the Kingdom, as unworthy to live in that State against which he had so much Offended.

Sir William Thorp Chief Justice of the *Kings-Bench* in K. *Edw.* the Thirds time, having of five several persons received five several Bribes, which in all amounted to 100 *l.* was for this alone adjudged to be Hang'd, and all his Goods and Lands Forfeited.

The reason of the Judgment is entred in the Roll in these words — *Quia prædictus Willielmus Thorpe qui Sacramentum Domini Regis erga populum suum habuit ad Custodiendum, fregit malitiose, falsè & Rebelliter quantum in ipso fuit. Because that as much as in him lay, he had broken the Kings Oath made to the People, which the King had Intrusted him withall.*

And so much did the then Collective Wisdom of the Nation respect Judges herein, that 'tis expressly entred, that this Judgment should not be drawn into example against any other Officers who should break their Oaths, but only against those, *Qui prædictum Sacramentum fecerunt et frugerunt, et habent Leges Angliæ ad Custodiendum.* That is, only to the Judges that violate their Oaths, having the Laws of England Entrusted unto them.

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This Judgment was given 24 Edw. 3d. The next year in the Parliament 25 Edw. 3. Numero 10. it was debated in Parliament, Whether this Judgment was Legal, and *Nullo Contradi-cente*, unanimously it was declared to be just and according to the Law, and that the same Judgment may be given in time to come upon the like occasion. Which Case, I humbly conceive, resolves the Case in Law Point Blank thus: *That it is death for any Judge wittingly to break his Oath in any part of it.* This Oath of Thorp is entered in the Roll, and is the same verbatim, with the Judges Oath in 18 Edw. 3: The same too (as I humbly conceive) which our Judges now a days take, and is herein afterwards punctually recited.

The Oaths of our Judges of England, as they bind them to the due Administration of Justice to the Subject, according to the Laws, (which are every Free-mans Birth-Right) so also, as they be of the Kings Council, they are by such their Oaths oblig'd, lawfully to counsel him, that is, whenever their opinions are demanded, they are sworn and bound to deliver them according to the Law. Let us see how our Ancestors resented these matters.

In a Parliament held in the 11th year of Richard the 2. there was Judgment of High-Treason given against 18 several Persons, and all, save one of them, of Eminent Rank; Three Privy Counselors, viz. The Archbishop of York, The Duke of Ireland, and Earl of Suffolk, the Bishop of Exeter, the Kings Confessor, Five Knights, of whom some had been Servants to Edw. the 3. and all, but one, Servants to the then King, and some of them of Noble Descent; but that which I more particularly observe, there were amongst them Six Judges, and Locton the Kings Serjeant at Law; Blake of the Kings Council at Law, and Usk the under-Sheriff of Middlesex.

Of these 18, 8 were Executed, that is, Sir Robert Tresilian, the Lord Chief Justice was drawn from the Tower, through the midst of London, to Tyburn, and there Hanged; so likewise were Usk and Blake, and Sir John Salisbury; but the other 4 Knights had the Favour to be Beheaded.

Three, that is, the Archbishop of York, the Duke of Ireland, and the Earl of Suffolk, died miserable Fugitives in forreign Parts.

The other seven (whereof five were Judges) with much ado got a Pardon as to Life, but were banished, and their Lands and

D

Goods

Goods all forfeited ; and it was made Felony for any to procure their Recalling home, and themselves forthwith to be executed as Traytors, if at any time they should presume to return.

And of these eighteen Persons, all save three were impeached by the *Commons*.

The *Offences* which procured these *Exemplary Punishments*, were briefly these :

King *Richard* the II. being an unthinking dissolute Prince, by the ill counsel of some near his Person, there had during his minority happened divers miscarriages in the Government : To redress which, in a Parliament holden in the tenth year of his Reign, and the twentieth of his Age, a Commission was awarded to *Twelve Peers*, and others of greatest Wisdom and Ability, empowering them to inspect the past management of the *Household*, the *Revenue*, the *Courts of Justice*, and in a word, all things that did concern the Good of the *Realm* ; with full power finally to determine, and put all things in execution, so as might most tend to the *Honour* of the *King*, *Relief* of the *People*, and *Safety* of the *Land* ; which *Commission* was to endure onely one year.

Now come five of the Persons above-named, *viz.* the Archbishop, the Duke, the Earl of *Suffolk*, the Chief *Justice*, and *Brembre*, who seeing themselves like to be called to Account for their pernicious Counsels and Irregularities, and to be brought to deserved shame and punishment ; to avoid the same, and continue their Villanies for the future, they insinuated to the King, *That this Commission intrenched upon the Royal Power, and was derogatory to the Crown, that the procurers thereof had extorted His Royal Assent thereunto in Parliament ; and that this was Treason* : for so the Chief *Justice* and *Blake* the Kings Council, who was advised withal in the *Writ*, declared it to be ; whereupon *Blake* was commanded to prepare an Indictment of Treason against all the said Commissioners, and against such others as had been most active in procuring that Authority : Accordingly he draws the Indictment which stands entred in the Roll, and is to this effect, *That they the said Commissioners, &c. had Traiterously conspired among themselves to make this Commission by Authority of Parliament against the Royalty of the King, to his disherison, and in derogation of the Crown, and that they forced the Kings Consent, and confederated themselves to maintain one another in so doing.*

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It was designed that they should be tryed upon this Indictment in *Middlesex* or *London*, and therefore (some of the parties to be prosecuted not being Peers) *Ask* the Under-Sheriff of *Middlesex* was acquainted with the business, (who was to return a Pack'd-lury (you see that's a very old *Game*) that might be sure to do the business, which he performing accordingly, was therefore hang'd.

But further, the five grand *Favourites*, that the King might the more confide in their Counsels, (for so are the words of the *Record*) and that under colour of Law, they might cover their malice from the King and the Kingdom, before the Trials were to be brought on, advise the King to demand the Opinion of some of the Judges, that is, of the two *Chief Justices*, and *Chief Baron*, and the Judges of the *Common-Pleas*, six in all in number, and of *Lofton* the Kings Serjeant, *Blake* of the Kings Council at Law, was commanded to draw up those Questions, who did accordingly, and for drawing the same, and the before-mentioned Indictment, he was himself Drawn and Hanged.

The Questions being prepared in Writing, the Judges were sent for to Nottingham Castle, where in the Kings own Presence, they were commanded upon their Allegiance to deliver their Opinions.

1. Whether the Commission was derogatory to the Rights of the Crown? They answered, It was.

2. Whether the persuading and urging the King to consent therein in Parliament, was Treason? They answered, That it was.

Here were other Questions ask'd, but these were the Main and those for which they were condemned, as appears by the Replication of the Commons to the Judges Answer, and by the Word of the Judgment --- That they the said Judges knew that this Commission was awarded in Parliament, &c. that it was for the Publick Good; That they knew of the Traiterous Intent to destroy the Procurers of this Commission; That they knew the Law, and that it was not Treason, and had delivered such Opinions thereby, under colour of Law, to cover their Treasonable Intent, and therefore Judgment of High-Treason was given against them, and against *Lofton* the Kings Serjeant, who had Subscribed these False Opinions with the Judges. And though there be other Articles against the Rest, yet this alone is adjudged Treason, in the several Judgments against every one of the Eighteen: And 'tis observable, That in all these Judgments, they are adjudged

ed Traitors as well against the Person of the King, as against the Common-wealth.

And it is there declared upon great Advice taken, That in Treasons which concern the King and Kingdom, they are not bound to proceed according to the Rules of the Common-Law, but according to the Course of Parliaments, so as may be for the Common-Good. Nor were these Judgments huddled up in haste, but given upon long and mature Deliberation, the Work of a Whole Parliament. And it is declared in the Roll, That they spent long time, and took great pains in examining the Evidence, the better thereby to satisfy their own Consciences and the World. Their Proceedings against the five Plotters were begun the 14 of Novemb. and the Judgments were not given till the 15 of Feb. following, which is a Quarter of a Year.

'Tis also to be observed, That several of these Judges were very unwilling to give their Corrupt Opinions, but were menaced and violently drawn thereunto by the Duke of Ireland and others. And at their Trials, they severally Alledged, That in part Violence had been offered to their Persons, because they had deferred the delivery of their Opinions. But as Fear or Cowardice is no Plea for delivering up of the Forts or Bulwarks of the Kingdom, so neither is it for basely betraying our Rights and Liberties. These Allegations of being threatened from their Duty, could not excuse them from the Rope: but how much more then do they deserve it who shall presume to do as bad things or worse, without any Menaces at all, but wilfully and presumptuously, purely out of their own base inclinations?

But Tresilian was not the onely Judge which our English History, even since the Conquest, mentions to have been executed for irregular Practices: For in the Reign of King Henry the Seventh, a Wise but Avaritious Prince, there were two Gentlemen of the Long Robe, that for private Interest, and to serve the Kings present Turn, were ready to dispence with their Oaths, and the known Fundamental Laws. But as they liv'd hated during his time, so they died unlamented under his Successor, being given up a necessary Sacrifice to Publick Justice.

Their Names were, Sir Richard Empson Knight, and Edmund Dudley, both (saith Sir Richard Baker, fol. 247.) Lawyers, and both of them Barons of the Exchequer, and Justices of the Peace throughout England: Dudley of a good Family, but Empson the Son of

a *Sieve-maker*: So true is that Remark of the Poet;

Mendico asperius nihil est cum surgit ad Altum.

There is no Person in the World more *Haughty*, or an *Apter Tool* for Oppression, than a *Beggars Bratt*, or some base *Mechanick*, *Butcherly Off-spring*, when undeservedly flush'd with *Preferment*.

The *King* made odd Use of these Two Instruments. *They turn'd* (says *Baker*) *Law* into *Rapine*. And most certain it is, that many ill Things they did: But the better to colour their vile *Practises*, a Statute was Provided, to Justify their *Invasions* on the *Liberties* and *Properties* of their *Fellow-Subjects*.

We will give you an Account of this Matter, in the very Words of that Great Oracle of our Law, Sir *Edward Cook*. But first, hear how Sir *Richard Baker*, in his *Chronicle*, fol. 247. represents them:

" Their Manner was (saith he) to cause divers Subjects to
 " be Indicted of Crimes, and then presently to Commit them, and
 " not Produce them to their Answer, but suffer them to Lan-
 " guish long in Prison; and by sundry Artificial Devices and
 " Terror, extort from them great *Fines*, which they termed *Com-*
 " *positions* and *Mitigations*. Neither did they (towards the End)
 " observe so much as the Half-Face of *Justice*, in Proceeding by
 " Indictment; but sent forth their Precepts to Attach Men,
 " and Convent them before Themselves, and some Others, at
 " their private Houses; and there shuffle up a Summary
 " Proceeding by Examination, **without Tryal by Jury**;
 " assuming to themselves to deal both in *Pleas of the Crown*, and
 " *Controversies Civil*. Then did they also use to Enthal, and
 " Charge the Subjects Land with Tenures in *Capite*, by finding
 " False Offices, refusing upon divers Pretexts and Delayes, to
 " admit Men to Traverse those False Offices. Nay, contrary
 " to all Law and Colour, they maintain'd, That the *King* ought
 " to have the Half of Mens Lands and Rents, during the Space
 " of full Two Years, for a Pain, in case of *Outlawry*. They
 " would likewise *Ruffle* with *Jurors*, and enforce them to Find,
 " as they would Direct: And if they did not, then Convent,
 " Imprison, and Fine them. These, and many other Cour-
 " ses they had, of Preying upon the People, and had ever a
 " Rabble of Promoters, and Leading Jurors at their Command, so
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‘as they could have any Thing found, either for Fact, or Valuation.

Thus far the *Historian*. Now, take the Relation of the Reverend Judge **Cook**, in his ever-valuable Works, Commenting in the Second Part of his *Institutes* on that **GOLDEN Nine and Twentiyeth Chapter of Magna Charta**; which being of *Incstimmable Value*, I take it for granted, no True *English-Man* will any more grudge the Reading, than I do the Recital of it; and I wish it might every *Market-Day*, be repeated with a *Speaking-Trumpet*, in every Town and Corporation of this Kingdom. The Words run thus :

Nullus Liber Homo, &c.

“No Free-Man shall be Taken, or Imprisoned, or Disseised of his Free-Tenement or Liberties, or Free-Customs; “or be Out-law’d, or Exil’d, or in any manner Destroy’d: “Nor will we pass upon him, nor send any (*to pass*) upon “him: But by the Lawful Judgment of his **Peers**, or by “the Law of the Land. We will Sell to none, we will Deny to “none, nor to any delay Justice or Right.

Discoursing, I say, upon this most Comprehensive Text, the Corner-Stone of all our *English Freedoms*, my Lord Cook, 2 *Instit.* fol. 51. thus expresses himself:

Against this Antient and Fundamental Law, and in the Face thereof, I find an Act of Parliament made 11 H. 7. Cap. 3. That as well Justices of Assize, as Justices of the Peace, (without any Finding, or Presentment by the Verdict of Twelve Men) upon a bare Information for the King, before them made, should have full Power and Authority, by their Discretions, to Hear and Determine all Offences, &c.

And Fourth Part, *Instit.* fol. 39. he gives a further Account of, and Recites this Act thus :

“There was an Act of Parliament made in the 11 H. 7. “which had a Fair, Flattering Preamble, pretending to avoid “divers Mischiefs, which were, 1. The High Displeasure of “Almighty God. 2. The great Let of the Common-Law. “And, 3. The great Let of the Wealth of this Land. And “the Purview of that Act tended in the Execution contrary, “*Ex Diametro*, viz. To the Displeasure of Almighty God, The
“great

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“ great Let, nay, the utter Subversion of the Common-Law,
 “ and, The great Let of the Wealth of this Land; Which Act
 “ followeth in these Words:

The King our Sovereign Lord, calling to his Remembrance, That many good Statutes, and Ordinances be made for the Punishment of Riots, and unlawful Assemblies, Reteinders in giving, and receiving of Liberties, Signs, and Tokens unlawfully, Extortions, Maintenance, Imbracery, Excessive taking of Wages, contrary to the Statute of Labourers and Artificers, the Use of unlawful Games, Inordinate Apparel, &c. to the displeasure of Almighty God, &c. notwithstanding that generally, by the Justices of the Peace, in every Shire within this Realm, in the open Sessions, it is given in Charge to inquire of many Offences committed, &c. and divers Inquests thereupon straightly Sworn, and Charged before the said Justices to inquire of the Premises, and therein to present the Truth, which they letted to be found by Imbracery, Maintenance, Corruption, and Favour; by occasion whereof, the said Statutes be not, nor cannot be put in due Execution: For Reformation whereof, forsomuch that before this time the said Offences, Extortions, Contempts, &c. might not, nor as yet may be conveniently Punished by the due Order of Law, except it were first found, and presented by the Verdict of Twelve Men thereto duely Sworn, who for the Causes before Rected, will not find, nor present the Truth; Wherefore be it by the Advice, and Assent of the Lords Spiritual and Temporal, and the Commons in this present Parliament Assembled, and by Authority of the same Enacted, Ordained, and Established: That from henceforth, as well the Justices of Assize, as the Justices of the Peace, in every County of the said Realm, upon Information [Note, it was to be without any Presentment, or Indictment found by any Grand or Petty Jury] for the King, &c. shall have full Power, & Authority by their Discretion to hear, & determine all Offences, &c.

Here you see Matters were left to be determined by Judges, and Justices **without Juries**, in a Summary, Chancery Method, only according forsooth! to their Discretion: Yet still there was a *Proviso*,

That no such Information should extend to Treason, Murder, or Felony; nor to any other Offence, for which any Person should lose Life or Member: Nor to lose by, or upon the same Information, any Lands, Tenements, Goods, or Chattels, to the Party making the same Information.

[Which deserves Particular Notice:] Yet observe, how the same Reverend Lord **Cook**, in the Place before-cited, descants on this Act.

By Pretext (saith he) of this Law, Empson and Dudley did commit upon the Subject unsufferable Pressures and Oppressions; and therefore, this Statute was justly, soon after the Decease of Henry the Seventh, Repeal'd by an Act of Parliament, 1 H. 8. Cap. 8. A good Caveat to Parliaments, to leave all Causes to be measured by that Golden, and Strait-Mete-Wand of the Law, and not to the incertain and crooked Cord of Discretion.

It is not almost Credible, (continues the same Judicious Author) to fore-see, when any Maxim, or Fundamental-Law of this Realm [He means, as to this particular Case, Tryals per Pais, that is, by Juries] is Altered, what dangerous Inconveniences do follow. Which most expressly appears by this **Most Unjust & Strange Act**: For hereby, not only Empson and Dudley themselves; but such Justices of Peace, Corrupt Men as they caused to be Authorized, Committed most grievous and heavy Oppressions and Exactions, Grinding of the Faces of poor Subjects by Penal Laws, be they never so Obsolete, or unfit for the Time. [Suppose, for a Parallel in our Times, putting the Statutes against Popish Recusants, in Execution against Protestant Dissenters, at a Juncture when Popery was just ready to over-run us all] by Information only, without any Presentment or Tryal by Jury, being **The Antient Birth-Right of the Subject**: But to Hear and Determine the same, by their Discretion. These, and other like Oppressions and Exactions by, or by Means of Empson and Dudley, and their Instruments, brought Infinite Treasures to the King's Coffers; whereof the King, in the End, with great Grief and Compunction, Repented.

This

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This Statute of 11 H. 7 we have Recited, and shewed the Inconveniencies thereof; to the end, that the like should never hereafter be attempted in any Court of Parliament: And that others might avoid the Fearful End of these Two Time-Servers, Empson and Dudley.

Thus far that Oracle o our English Laws. Wherein be pleased to observe:

First, That he sticks not to call even an *Act of Parliament*, most **Unjust and Strange**: And in the *Second Part* of his *Institutes*, fol. 51. **Unjust and Injurious**; because it Altered a *Fundamental-Law* of the Realm, viz. Denied Tryal by *Juries*, a most Essential Part of **English Freedom**, and never to be parted with.

Secondly, Observe what became of these Two Wicked Men, though they had such a Colour of Law to bear them out: They were, in the Beginning of the Reign of King *Henry the Eighth*, (first) *Indicted* for other base Practises, in Finding of *False Offices* for the King, to the Dammage and Disherison of His Subjects: Which *Indictment* ran as follows, (see *Cook's Instit. Part the Fourth*, fol. 198.)

Juratores presentant quod Richardus Empson mper de London Miles, &c.

In *English* thus:

The Jurors present, That Richard Empson, late of London, Knight, late Counsellor of the most Excellent Prince, Henry the Seventh, late King of England, on the Tenth Day of May, in the Twentyeth Year of the said late King, and divers Times before and after, at London, &c. Not having God before his Eyes; but as the Son of the Devil: imagining the Honour, Dignity, and Prosperity of the said late King; and the Prosperity of his Kingdom of England, not at all to Value or Regard: But to the end, that he might obtain to be a more Singular Favourite of the said late King, whereby he himself might be made a Noble or Great Man, and Govern the whole Kingdom of England at his Pleasure; Falsly, Deceitfully, and Treasonably Subverting the Law of England, did (amongst other Things) the Day and Year afore-said, at London, in the Parish and Ward afore-said, procure, and cause to be found divers false Inquisitions, and Offices of Intrusions, and Alienations of

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divers

Divers Leige-Subject's Mannors, Lands, and Tenements; that they held the Mannors, Lands, and Tenements in those Inquisitions specified of our Lord the King, in Capite, or otherwise; when in Truth it was not so. And afterwards, when the said Leige-Subjects of our Lord, the late King, would have tendered and alledged Traverles to the said Inquisitions, in the Court of Him, the said late King, according to the Law of England; they could not be admitted to those Traverles: But he, the said Richard Emplon, debar'd and delay'd them from the same, till they had agreed with him, to pay Divers Great and Insupportable Fines and Redemptions; as well for the Profit of the said late King, as for the proper, private Advantages of him, the said Richard; to the great Impoverishment of the said Subjects. And that the said Richard, the Day and Year afore-said, in the Parish and Ward afore-said, and several Times before and after, Divers Leige-Subjects of the said late King, holding of our said Lord the King, Divers Mannors, Lands, and Tenements, by Knight's-Service, and themselves being (by the Death of their Ancestors) under Age, and so in the Wardship of the King, by Reason of their Tenure, when they came to lawful Age, and ought to have had due Liberty of their Mannors, Lands, and Tenements, according to the Custom and Law of England, and would have Prosecuted the same according to the Course of Chancery; did refuse them so to do, and totally deny and exclude; until they had made with him, the said Richard, Divers great Fines and Redemptions, more than they could bear; as well for the Gain of the said late King, as for the private Benefit of him, the said Richard: Whereby many of the said late King's People were by such Grievances, and Unjust Extortions many wayes vexed: Insomuch, that the Subjects of the said late King, did manifoldly murmur, and bear ill Will against the said late King; to the great Peril of Him, the said late King, His Kingdom of England, and the Subversion of the Laws and Customs of this Realm.

'Tis true, (saith my Lord Cook, *Fourth Part of his Institutes*, fol. 41.) in this Indictment [Which, *Mutatis mutandis*, we are to suppose, was alike against Dudley] the Word **Proditorie**, [That is to say, **Treasonably**] was used but for Aggravation, and as a Preparative (for a Prosecution) to Greater Offences. For they were not to escape with a Charge of Misdemeanor only: But in the same Year, they were both Indicted of High-Treason, both by the Common-Law, and Act of Parliament. And in the Second Year of King Henry the Eighth, they both Lost their Heads.

Thus, that Profound Judge speaks of them, who 4. *Instit.* fol. 41. concludes the Story of these Time-serving, Self-designing Judges, with this most remarkable Epiphonema: *Qui eorum Vestigiis insistant, eorum Exitus prehorrescant; Those that shall dare tread their Steps, let them dread (or expect) the like dismal Ends.*

Sir

Sir Richard Baker, the Best perhaps (for want of a better) of our Modern English Historians, gives somewhat a more particular Account of the Fate of these Two Corrupt Hucksters of Law and Justice: Which be pleas'd to Peruse in his own Words; fol. 254.

Speaking of King Henry the Eighth's general Pardon, at his first coming to the Crown, and how he Ordered Restitution to be made, of all Goods unjustly taken from any. He Adds:

"And because the Instruments of such Injustice are **Always**
 "most **Odious**, and nothing gives the People so much Contentment, as to see their Persecutors Punished. He therefore caused Empson and Dudley, the Two Chief Actors of the late unjust Proceedings, to be Committed to the Tower, and divers of their Inferior Agents, called Promoters [The Raskally Informers, Pensionary Affidavit-Men, or (if you please) **Robin Hogg's** of that Age] "As Camby, Page, Derby, Wight, Simpson, and Storckton, to be set on the Pillory in Cornhill, with Papers on their Heads, and then to Ride through the City with their Faces to the Horse-Tails, with the shame whereof, in Seven Days after they all Dyed in Newgate.

"Shortly after a Parliament was called; whereof Sir Thomas Ingleby was chosen Speaker: And therein Empson, and Dudley were Accused of High-Treason, and after Arraigned; Edmund Dudley, in Guild-Hall, on the Seventeenth of July; and Sir Richard Empson at Northampton, in October following. And on the Seventeenth of August, the Year following, [Which was Anno Domini, 1516.] they were both of them Beheaded on the Tower-Hill; and their Bodies and Heads Buryed, the one at White-Fryars, the other at the Black.

And also, by an Act of 1 H. 8th. Cap. 6. the before-recited Injurious Statute of 11 H. 7. was made void, and repeal'd; and the Reason thereof is yielded, for that by Force of the said Act it was manifestly known, that many Sinister and Crafty, Feigned, and Forged Informations, had been pursued against divers of the King's Subjects, to their great Dammage and wrongful Vexation.

For it is not Credible, (saith the Lord Cook, Second Part of his Institutes, fol. 51.) What horrid Oppressions and Exactions, to the undoing of Infinite Numbers of People, were Committed by Colour of

that *Act*, shaking the Fundamental-Law of the Land: The ill Success whereof, and the Fearful Ends of these Two Oppressors, should deter others from Committing the like; and admonish Parliaments, That instead of this Ordinary and Precious Tryal, per Legem Terræ, they bring not in Absolute and Partial Tryals by Discretion.

So much touching *Empson* and *Dudley*, those Names of Ignominy and Detestation. Let us now proceed to the Famous Case of **Ship-Money**, in the Reign of King *Charles the First*, and the Extrajudicial and Illegal Opinions of the **Judges** therein Delivered, with the dismal Consequences thereof, as well to themselves, as to the *King*, and whole Realm.

KING Charles the First came to the Crown 27 March, 1625. In the Three First Years of His Reign, he call'd Three several Parliaments; but none of them Complying to give so much Money, as was Expected: But rather insisting upon Complaints against *Buckingham*, the then Grand Favourite, and to have Publick Grievances Redressed, They were all Dissolved in Discontent; and no more Parliament spoken of, till that of the Thirteenth of April, 1640. (which was likewise suddenly Dissolved.) During this long Interval, or Absence of those whom the Laws had Entrusted with Keeping the Right Keys of the Publick Purse, there were some that would needs be Tampering to Pick it; I mean, several little Intrigues were set on Foot, to Supply the Court, and get Money from the Subjects, without their Common Consent in Parliament; (that good Old Course, which Never Fail'd any KING, upon any Just Occasion, or where they knew it should not be diverted to the KING's Dishonor, and the Nations further Grievance) Of this kind were, 1. The Privy Seals issued. 2. Benevolence required. 3. Commissions of Loan. 4. The Business of Knight-hood; whereby all persons Seiz'd of Lands and Rents of Forty Pounds per Annum, or upwards, were by Proclamation Summon'd, either to appear, and take upon them the Degree of Knight-hood, or else were liable to be Fined for Respite of the same. Which (alone saith *Baker*, fol. 449.) brought an Hundred Thousand Pounds or more, into the Exchequer.

But all this was still thought too little: These Devices might serve for a present Shift, once, and no more; but there wanted a Continual Fund, or Constant Supply, as oft as the Court wanted,

wanted, or thought fit to require Mony, without being beholden to Parliaments. Whereupon, 5th. By the fatal Advice (as tis said) of Noy, the then Attorney General, the King was put upon this Project of raising Mony, by Issuing out Writs, Commanding his Subjects to be Rated, and Assessed in such and such Sums, for Building, and Equipping of Ships, for the publick Defence of the Kingdom: Which the said Attorney perswaded his Majesty might be Justified by antient Precedents. In pursuance hereof, the King in the *Nineth* Year of his Reign, Issued out certain Writs of that kind, to the *Sea-Ports*, and *Maritime-Parts* of the Realm: And finding (for the most part) a punctual Obedience, and good Advantage thereby; it was in short time after, advised to Extend the same Charge to all the *Counties* of this Realm, though never so remote from the Seas; wherein, meeting with some that refused to pay, as Conceiving the same Unlawful, the Judges (who by their *Oaths*, are the Kings proper Counsellors in all difficulties concerning the Law) were to be Consulted with. So, a Letter was Written to them, from the King in these Words: [*Baker's Chron. fol. 455.*]



To our Trusty, and well-beloved Sir John Bramston, Knight, Chief Justice of our Bench; Sir John Finch, Knight, Chief Justice of our Court of Common-pleas; Sir Humphrey Davenport, Knight, Chief Baron of our Court of Exchequer; And to the rest of the Judges of our Court of Kings Bench, Common-Pleas, and the Barons of our Court of Exchequer.

Charles Rer.

TRusty and Well-beloved, We greet you well: Taking into our Princely Consideration, that the Honour and Safery of this our Realm of *England*, (the Preservation whereof, is **Only** Entrusted to our Care) was, and is more nearly concern'd, than in late or former times; as well by

divers Counsels, and Attempts to take from us the Dominion of the Seas; of which we are sole Lord, and Right Owner, and Proprietor; and the Loss whereof, would be of greatest Danger and Peril to this Kingdom, and other our Dominions, and many other ways. We for the avoiding of these, and the like Dangers; well Weighing with our self, that where the Good, and Safety of the Kingdom in general is concern'd, and the whole Kingdom in Danger, there the Charge, and Defence ought to be Borne by all the Realm in general, did for the preventing so publick a Mistake, resolve with our self, to have a Royal Navy prepared, that might be of Force and Power (with Almighty God's Blessing and Assistance) to Protect, and Defend this our Realm, and our Subjects therein, from all such Perils and Dangers: And for that purpose, we Issued forth Writs under our great Seal of *England*, Directed to all our Sheriffs of our several Counties of *England*, and *Wales*; Commanding thereby all our said Subjects in every City, Town, and Village, to provide such a Number of Ships well-furnish't, as might serve for this Royal Purpose; and which might be done with the greatest Equality that could be. In performance whereof, though generally throughout all the Counties of this our Realm, we have found in our Subjects, great Chearfulness, and Alacrity; which we Graciously Interpret as a Testimony, as well of their Dutiful Affection to us, and our Service, as of the Respect they have to the Publick, which well becometh every good Subject. Nevertheless, finding that some few happily out of Ignorance, what the Laws and Customs of this Realm are; or out of a desire to be eased in their Particulars, how General soever their Charge be, or ought to be, have not yet Paid, and Contributed to their several Rates, and Sessments that were set upon them. And foreseeing in our Princely Wisdom, divers Suits and Actions, are not unlike to be Commenced, and Prosecuted in our several Courts at *Westminster*: We desirous to avoid such Inconveniencies, and out of our Princely Love, and Affection to all our People, being willing to prevent such Errors as any of our Loving Subjects may happen to run in-to; have thought fit, in a Case of this Nature, to Advise with you our Judges, who we doubt not are well Studied, and Informed in the Rights of our Sovereignty; and because the Tryals of our several Courts, by the Formalities in Pleading,

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will require a long Protraction. We have thought fit by this Letter directed to you All, to require your Judgments in the Case, as is set down in the Inclosed Paper; which will not only gain Time, but also be of more Authority to over-rule any Prejudicate Opinions of others in the Point. *Given under Our Signet, at Our Court of White-Hall, the Second of February, in the Twelfth Year of Our Reign, 1636.*

The CASE propounded in the Paper inclosed, was thus worded:

Charles Rex.

When the Good and Safety of the Kingdom (in General) is concern'd, and the whole Kingdom in Danger; Whether may not the KING, by Writ under the Great Seal of England, Command all the Subjects in His Kingdom, at their Charge, to Provide and Furnish such Number of Ships with Men, Victuals, and Munition, and for such Time as He shall think fit, for the Defence and Safe-guard of the Kingdom, from such Danger and Peril? And by Law compel the Doing thereof, in case of Refusal or Refractoryness? And, Whether in such Case, is not the KING the sole Judge, both of the Danger, and when and how the same is to be prevented and avoided?

To which, the JUDGES delivered their Opinions as followeth:

May it please Your most Excellent Majesty!

WE have, according to Your Majestie's Command, severally, and every Man by himself, and All of us together, taken into Serious Consideration, the Case and Questions Signed by Your Majesty, and inclosed in Your Letter. And We are of Opinion, That when the Good and Safety of the Kingdom (in General) is Concern'd, and the whole Kingdom in Danger, Your Majesty may, by Writ under the Great Seal of England, Command all the Subjects of This Your Kingdom, at their Charge,

to Provide and Furnish such Number of Ships with Men, Victuals, and Ammunition; and for such Time, as *Your Majesty* shall think fit, for the Defence and Safe-guard of the Kingdom, from such Peril and Danger: And that by Law, *Your Majesty* may Compel the Doing thereof, in case of Refusal or Refractoriness. And we are all of Opinion, That in such Case, *Your Majesty* is the sole Judge, both of the Danger, and when and how the same is to be prevented and avoided.

John Bramston,	}	Richard Hutton,	}	George Vernon,
John Finch,		William Jones,		Robert Barclay,
Hum. Davenport,	}	George Crook,	}	Francis Crawley,
John Denham,		Thomas Trevor,		Richard Weston.

But it is to be noted, That though all the Judges did thus Sign this Answer; yet it was not according to all their Opinions; for *Crook* and *Hutton* dissented, and declared, That such a Charge could not be laid by any such Writ; but by *Parliament*. But the Major-Part of the Judges, being absolutely Resolved upon that Opinion, pressed them to Subscribe likewise with the rest; for that the Greater Number must involve and conclude the Less; which, they said, was usual in all Cases of Reference; And that the Lesser Number must submit to the Opinion of the More, although they varied in Opinion: As in the Courts of Law; If Three Judges agree in Opinion against One or Two, where there is Five Judges, Judgment is to be Entred *per Curiam*, if the Major Part agree, and the Others are to submit unto it, &c. (These are the very Words of Judge *Crook*, excusing himself for having thus Subscribed: See the Arguments on *Hampden's Case*, p. 12.)

Having thus got the Business back't with the Subscriptions of all the Judges of England, the same were Enrolled in all the Courts of Westminster-Hall: And now, they began to Prosecute briskly, all the Defaulters; amongst whom, the Chiefest was *John Hampden* of Buckingham-shire, Esquire, who had upon one of these Ship-Writs directed to the Sheriff of that County, been Assessed Twenty Shillings for his Lands in *Stoke-Mandevil*, in that County; which not being paid, was Certified (amongst others) into the Chancery, upon a Writ of *Certiorari*, Dated 9

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Martii, Anno 12. Car. by a Schedule thereunto annexed; and by a Writ of *Mittimus*, *Teste 3. Maii, 13. Car.* transmitted into the Exchequer; with a Command there, to do for the Leavying of the Sums so Assessed and Unpaid; *Prout de Jure, & secundum, Legem Regni nostri Angliæ fuerit faciendum;* So as of Right, and according to the Law of our Kingdom of England was to be done: whereupon a *Scire Facias* issued out of the Exchequer, reciting the said Writs, to warn Mr. *Hampden* (amongst others) to shew Cause, why he should not be Charged with this Money. Upon this, he being Summoned, Appeared, and demanded Oyer of those Writs and Schedule; which being Entred, he Demurr'd in Law; that is, demanded the Opinion and Judgment of the Court of Exchequer, Whether this Writ were sufficient in Law, to Force him to pay the said Twenty Shillings.

This being a Great and General Case, the Barons of the Exchequer, desired the Assistance of the rest of the Judges, who did Joyn accordingly. The Case was argued, first, by Counsel on both Sides; and next, by the Judges severally; of whom, Sir *Richard Hutton*, Knight, one of the Judges of the Common-Pleas, and Sir *Richard Crook*, Knight, one of the Judges of the King's-Bench, in large and learned Arguments, (since Printed) did shew the Illegality of such Writs, and gave their Opinion; That the Defendant *Hampden*, ought not to be Charged: But the rest of the Judges were resolved to carry the Point for the King; and accordingly gave their Opinions, That the Defendant ought to be Charged. And then, it was the Part of the Barons of the Exchequer, to give Judgment; which was Entred in these Words:

Quod sepealia Brevia predicta, & Return' eorundem, ac Schedul' predict' eisdem Annexæ, ac materia in eisdem content' sufficient' in Lege Exist' ad prefat Johannem Hampden de predictis viginti solidis super ipsum informa, & ex causa predicta Assesse onerand. Ideo consideratione est per eosdem Barones quod predictus Johannes Hampden de eisdem viginti solidis oneretur, & inde satisfaciatur: That the said several Writs and Returns thereof, and the Schedules thereunto annex't, and the Matter in the same contained, are sufficient in Law to Charge the said John Hampden with the Twenty Shillings upon him, in the Form, and by Vertue of the Assessment afore-said imposed. Therefore, it is considered by the said Barons, That the said John Hampden shall be Charged, and shall satisfy the same.

This Judgment was imposed, as such an Infallible Determination

of the Law in this Case, that no further Dispute would be allow'd thereof to any others; inſomuch, that a Perſon of Honour, having a Caſe depending in the *King's-Bench*, was denyed any Argument or Debate, concerning the *Right of Ship-Money*, for no other Reason, but that it had been by the former Judgment, decided already in the *Exchequer*.

It may perhaps be ſaid: *This Impoſition of Ship-Money was ſmall and inconfiderable; Mr. Hampden, a Gentleman of a fair Eſtate, was Aſſeſſed but Twenty Shillings: And, Why ſhould any Body ſcruple ſuch a petty Buſineſs, when the King Commanded it? Was not the Remedy far worſe than the Diſeaſe? Why ſhould any Subject expend a great deal of Money in Law, to avoid Payment of ſo Trivial a Sum? Or, What Harm could accrue to the Publick, by the Judges allowing the King Power to Impoſe ſuch an Aſſeſſment, when it was for the Defence of the Realm from Eminent and Imminent Danger, and he exerted that Power ſo favourably. &c.*

In *Answer* to ſuch Objections, it muſt be ſaid; That true it is, it was then only *Mr. Hampden's Caſe*; but the whole Nation, every individual Subject of *England*, was concern'd in it: nay, ſo far concern'd, that all his Eſtate and Liberty was therein given up. The *Queſtion* was not *Quantum*, but *Quo Jure*? If Publick Danger might give the King Title to lay Impoſitions without a *Parliament*, and He alone were Judge of ſuch Danger, When might it not be alledged? If *Twenty Shillings* were Aſſeſſed on *Mr. Hampden* that Year, How did it appear, but *Twenty Pounds* might be required the next, and *Two Thouſand Pounds* the Year following? And, What Uſe, what Occaſion would the Court have had for ever afterwards, of a *Parliament*? But as to the *Illegality* of theſe *Ship-Writs*, I refer the Reader to Judge *Crook's Argument*; where the ſame is Demonſtrated to be againſt the *Common-Law*, againſt divers Statutes, not to be maintain'd by any *Prerogative*, or Power Royal, unwarrantable by any former *Precedents*, &c.

Let us ſee then, what were the *Conſequences* of theſe *Extra-judicial Opinions*, and this *Illegal Judgment* of the Judges.

First, As to the *King*: They thereby miſ-led him (as much as in them lay) to Diſcompoſe the Harmony of Government; to Entrench upon the Property of His Subjects; and (contrary to his Intentions) by Colour of Right, to violate the Laws, which, no doubt, that *Good Prince* meant to have preſerv'd Inviolable.

Secondly,

Secondly, As to the Subjects: They were not only hereby Injured, but their Affections Alienated from their Sovereign; which to occasion, is no doubt a very High (because almost Irreparable) Treason.

The Genuine Sense of these Resolutions, being no less than this; That the King of England, as often as Himself pleaseth, may declare the Kingdom to be in Danger, and that so often, His Majesty, for Prevention of such Dangers, may, by His Writ under the Great Seal of England, alter the Property of the Subject's Goods, without their Consent in Parliament; and that in such Proportions, as His Majesty shall think fit: And besides, may deprive them of the Liberty of their Persons, and that in such Manner as Himself shall please.

Thirdly, As to the Judges themselves: It prov'd deservedly Fatal; For no sooner was a Parliament Call'd, but they were call'd to Account for these their Illegal Opinions and Judgment.

And after a long Debate, on Monday the Seventh of December, 1640. these Four several Votes Passed upon them, without so much as One Negative Voice to any of them, viz,

First, **T**hat the Charge imposed upon the Subjects, for the Providing and Furnishing of Ships; and the Assessments for Raising of Money for that purpose, commonly called Ship-Money, are against the Laws of the Realm, the Subjects Right of Property, and contrary to former Resolutions in Parliament, and to the Petition of Right.

Secondly, That the Extrajudicial Opinions of the Judges, Published in the Star-Chamber, and Intolled in the Courts at Westminster (before Recited) in the whole, and in every part of them are against the Laws of the Realm, the Right of Property, and the Liberty of the Subjects, and contrary to former Resolutions in Parliament; and to the Petition of Right.

Thirdly, That the Writ to the Sheriff of Bucks (particularly Recited) and the other Writs, commonly called Ship-Writs; are against the Laws of the Realm, the Right of Property, and the Liberty

ty of the Subjects, and contrary to former Resolutions in Parliament, and to the Petition of Right.

Fourthly, That the Judgment in Mr. Hampden's Case (as before Recited) in the matter and substance thereof; and in that it was conceived that Mr. Hampden was any way Chargeable, is against the Laws of the Realm, the Right of Property, the Liberty of the Subjects, and contrary to former Resolutions in Parliament, and to the Petition of Right.

These Votes being Transmitted by the Commons to the House of Lords; Their Lordships did Concur therein. And on Friday the 26. of February, 1640. It was Ordered by the Lords Spiritual and Temporal, in the High Court of Parliament, Assembled; That the Lord-Keeper, or Master of the Rolls; the Two Lord Chief Justices, and the Lord Chief Baron; and likewise the Chief Clerk of the Star-Chamber, should bring into the Upper House of Parliament, the Records of the Judgment against Mr. Hampden, concerning Ship-Money, in each of those several Courts, and that a Vacat thereof should be made. And that a Copy of the Judgment of the Parliament, concerning the Illegality thereof, should be Delivered to the several Judges of Assize; and that they should be required to Publish the same in all the Circuits. Which on the 27. of the same February, was done accordingly: the said Records being Vacated, and the Rolls Cross'd with a Pen in the House of Lords, and Subscribed with the Clerk of the Parliament's Hand.

And soon after, several of the before-named Judges were Impeached for the same in Parliament: And not daring to stand the Shock, some of them, as the Lord Chief Justice Finch, Fleed beyond the Seas; and others Absconded. And soon after, came on the Unnatural Civil-Wars, so Destructive to King and Kingdom; which, though no way Justifiable, yet it cannot be denied; but they were not a little Occasion'd, and the Animosities of the People, blown into an Untameable Flame, by these base Traiterous Proceedings of those Sycophant Judges. And Woe unto those (say Sacred Oracles) by whom Offences come.

However, after so many dismal Experiences, and late Warnings, and the Miraculous Restoration of His present Majesty,

our Gracious Sovereign (whom God long Preserve) a Prince of Incomparable Lenity, and Good-natur'd beyond Example; it might be hoped, that none, Preferr'd to the Publick Seats of Justice, durst to have Acted so contrary to His Royal Inclinations, as to violate those *Laws*, which He Himself has Sworn to Maintain, and Intrusted them to Administer: Yet so Base and Extravagant are some, as even to abuse the Favours of the Best of Princes, and pufft up with Preferment, will take no Admonition from the Falls of their Head-strong Predecessors; but still presume to fully those *Ermins*, (the Emblems of *Imocency* and *Integrity*) which they wear, and adventure on the same Destructive Precipices.

You have heard, how heinously our Prudent Ancestors resented the Violation of their *Liberties*, (though by an Act) in Tryals of the Free-born People of England **without Juries**. Next to which, is the *Ruffling*, *Hectoring*, and *Over-awing* of *Juries*: For, What real Difference is there, betwixt allowing no *Juries* at all, and *Menacing* them into a Compliance (contrary to *Law*, and their own *Consciences*) with the Corrupt Humours, and Time-serving Interests of ill Judges? Of this Crime, the Lord Chief Justice Keeling, about the Year 1666. (a Time when God's General Judgments on this Sinful Land, might have awakened them to greater Circumspection and Uprightness) was not only Guilty, but Question'd for the same, even by That very Parliament, which was never extraordinarily Celebrated for bringing Publick Vermin to Punishment: Yet such a Sense they had of these ill Practises, that in their *Journal*, we find the following *Votes* on this Occasion.

Die Mercurii 11^o Decembris, 1667.

THE House Resuming the Hearing of the rest of the Report, touching the Matter of Restraint upon Juries; and upon the Examination of divers Witnesses in several Cases of Restraints put upon Juries, by the Lord Chief Justice Keeling,

Resolved, as followeth;

First, That the Proceedings of the said Lord Chief Justice, in the Cases now Reported, are Innovations in the Tryals of Men for their Lives and Liberties; and that he hath used an Arbitrary, and Illegal

Power, which is of dangerous Consequence to the Lives and Liberties of the People of England, and tends to the Introducing of an Arbitrary Government.

Secondly, That in the Place of Judicature, the Lord Chief Justice hath Undervalued, Vilified, and Contemned **Magna Charta**; the great Preserver of our Lives, Liberties, and Property.

Thirdly, That he be brought to Tryal, in Order to Condign Punishment, in such Manner as the House shall judge most Fit and Requisite.

And again: Die Veneris 13^o Decembris, 1667.

Resolved,

That the Precedents, and Practice, for Fining or Imprisoning of Jurors for Giving their Verdicts, is Illegal.

Here you see the ill Practices of that Chief Justice, were Braided in Parliament, and he was ordered to be Prosecuted; though by reason of the Houses being Prorogued, and he himself not long after Dying in Discontent, we do not find there were any further Proceedings made therein.

At the Sessions for London, Sept. 1670. William Penn, and William Mead, (Two of the People commonly called Quakers) being Indicted: For that they the Fourteenth of August before, did with others, to the Number of Three Hundred, in Grace-Church-Street, Unlawfully and Tumultuously Assemble, &c. by reason whereof a great Tumult did there happen, in Contempt of the King, great Disturbance of the Peace, & Terror of the People, &c. And the Jury (after having been several times sent back, and kept close from the Saturday till the Monday Morning) bringing them in Not Guilty, Sir John Howel, then Recorder of London, presumed to Fine the said Jury Forty Marks a Man, and to Lye in Prison till paid. Being thus in Custody, Edward Bushel, one of the said Jury-Men, brought his Habeas Corpus in the Court of Common-Pleas; and upon a long Argument, it was Adjudged by the whole Court, That the said Fining and Commitment was Illegal: Whereupon the said Bushel was Discharged, and left to bring his Action for False Imprisonment, against the said Recorder: Which Case is Reported by Vaughan, at that time Chief Justice of the said Court, in his Reports, Licensed and Approved of by the present Lord-Chancellor of England, Sir William Scroggs, since Lord Chief-Justice of the King's-Bench; my Lord North, Chief-

Chief-Justice of the *Common-Pleas*; and all the Judges of *England*. But as to the *Illegality* of any Courts *Imposing* upon, *Menacing*, *Fineing*, or *Imprisoning Juries*, see a small *Treatise*, Entitled, **The English-Man's Right**, Printed for R. Janeway, 1680. and another called, **The Grand Jury-Man's Duty and Office Explained**, Sold by Langley Curtis, on *Ludgate-Hill*; both well worthy the Perusal of every True *English-Man*.

What Proceedings have been *since*, or rather are at this instant pendent against Judges, for *Hectoring* of *Juries*, and other *Illegal Arbitrary Proceedings*, are too fresh in every Bodies Memory, to need a Recital. Instead of which, I shall rather Insert the *Form of the Oath*, Taken by Judges at their first Admittance to that Office; which runs as follows:

The OATH of a JUDGE.

In Dorso Claus: de Anno 20. Edw. 3ⁱ. Part. Prima.

YE shall Swear, That Well and Truly ye shall Serve our Sovereign Lord the King, and His People, in the Office of Justice: And that ye shall Counsel our Sovereign Lord the King, in His Needs: And that ye shall not give any Counsel, or Assent to any thing, the which might turn to Hurt, or Dis-heriting of the King, by any Way or Colour: And that ye shall not know any Hurt, or Dis-heriting of the King; but that ye shall make it to Him known, by You, or by some other Person: And that ye shall do equal Law and Execution of Right, to all the King's Subjects, Rich and Poor, without having Regard to any Person: And that ye shall not take by You, or by any other privily, ne apart, any Gift or Reward of Gold, or of Silver, nor of any other Thing, the which might turn you to Profit, unless it be Meat or Drink; and that of Little Value, of any Man that shall have any Plea, or Process, hanging before you, as long as the same before your self such Pleas and Processes shall be hanging, nor after for that Cause: And that ye shall take no Fees, as long as ye be Justice, nor Robe of any Person, great or small, in any Case, but of the King himself: And that ye shall not give any Counsel, or Advice to any Person, great or small, in any Case, where the King is Party: And in case that any Persons, of what ever Estate they be of, come before You in Sessions, with Force and Arms, or otherwise, against the Peace, or against the Form of the Statute thereof made, for to disturb the Execution of the Common-Law, or for to Venace the People, that they may not do the Law: That ye shall Arrest their Bodies, and put them in Prison; and in case they be such as ye may not Arrest, that ye shall Certifie the King of their Names, and of their Misdoining hastily; to that End, that he may thereof Obtain Remedy: & that ye shall not main-

tan by your self, nor by none other privily nor openly, any Plea or Quarrel hanging in the King's Courts, or elsewhere in the Country: And that ye shall not Delay any Person of Common-Right, for the Letters of the King, or of any other Person, nor for any other Cause: And in case that any Letters come to you contrary to the Law, that ye shall nothing do for such Letters, but ye thereof shall Certifie the King: And ye shall proceed to do the Law, the same Letters notwithstanding; and that ye shall do, And procure the Profit of the King, and his Crown in all Things, where ye them Reasonably may do. And in case that ye be found in Default here-after, in any of the Points aforesaid, ye shall be at the King's Will of Bodies, Lands, and of Honour, to do thereof that that shall please the King.

This well-contrived, necessary Oath, prescribed by the Prudence of our Fore-Fathers, would bear a large Comment; but we must hasten, and shall only remarque:

First, That they Swear, *Well and Truly* (that is, *Uprightly*, and according to Law) to Serve the King, and his People.

Secondly, That they shall do *Equal Right*, and Execution of Law, to all the King's Subjects, Rich and Poor; (that is, without Partiality, Favour, Malice, &c.) Justice is Pictured Blind in respect of the Subject, not the Object: She has a Ballance, not to weigh Gold, but the Crime: She has regard to Offences, not Persons.

Thirdly, That if any Letters from the King (unduely obtain'd, for so all such are supposed to be) shall be brought to them, contrary to Law, they are not to regard them; much less are they to value any Verbal Commands, or little Raskally Insinuations of any Court-Favourites, huffing Grantees, or small Minions of State.

Fourthly, That by this their Oath, Judges are to proceed according to Law; their Business is *Jus Dicere*, to Declare and Administer the Laws Establish'd; not *Jus Dare*, to Impose their own Whimsical, Arbitrary, Peevish, or Self-designing Opinions, for Law; or to Usurp a Legislative Power, so as deliver that to be Law, which in truth is not so. And if they shall presume to offend herein, they are Exemplarily to be punished: For since 'tis a known Maxime of Law, *Ignorantia Juris non excusat*, That Ignorance of the Law shall excuse no Man; (The Reason of which, is, because every Man is supposed to be Privy, and consenting to all our Laws, by his Representatives in Parliament.) How much less are Judges (whose Profession and Office it is to Understand the Law; and therefore, must take Notice of it, at their Peril) to be Indulg'd? Under what Character will they plead Excuse? Are they Persons of known Learning, and strong Natural Parts, great Reading, exquisite

exquisite *Eloquence*, &c? All this but *aggravates* their Fault, that they should abuse such good Gifts, to the Dishonour of the King that Commissons them, and Prejudice of His People that expected more exact Dealings from such Eminent Accomplishments. Will they shelter themselves under the before-mentioned *Plea of Ignorance*? This is already shewn to be an Invalid Allegation; and besides, 'tis a Reflection on that *Royal Power* that Preferr'd them: And, What infinite Mischiefs (of which there is no Particular *Complaint* or *Information*) may the Subjects suffer in their *Lives*, and *Fortunes*, under such *Ignorance*, which is alwayes attended with Equal *Presumption*? Or, lastly, Suppose it should be offered in their Favour, That for some time, at first, they were *Upright*, and have had the Reputation of Prudence and Integrity, in a'l Cases, except *such* and *such*: for which *Now* they are questioned: To this it may be fitly Answer'd, (as he of *Lacedemon* said of the *Athenians*) If they carryed themselves *Well*, when Time was, and now *Ill*, they deserve a Double Punishment; because they are not *Good*, as they *were*; and because they are *Evil*, as they *were* not. The Judges, 'tis true, are declared in the *Parliament-Roll* of the 11 R. 2. to be *Executors* of the *Statutes*, *Judgments*, and *Ordinances* of *Parliament*: But they must not make themselves the *Executioners* of them too, by endeavouring the Destruction of the Fundamentals of our *Laws* and *Liberties*. The *Law* is the *Temple*, the *Sanctuary*, whither the Subject is to run for Shelter and Defence: But if the Judges, *Sacerdotes Justitie*, those *Priests of Justice*, shall, like those of *Delphos*, utter *False*, *Ambiguous*, and *Time-serving Oracles*, Where is the Comfort of the Poor *Votaries*? Will not this *Sanctuary* then become *Templum sine Numine*, like that of the *Roman Emperour*, who after he had built it, put no *Gods* into it? We shall have the *Dead Killing-Letter* of the *Law*; but not the *Quickening*, *Preserving Sense* of it: The *Fabrick* and *Formalities* of the *Temple*; but the *Goddess Astraea*, and the *Dii Tutelares*, all that should Conserve our *Liberties* and *Properties*, will be vanish't: And instead thereof, we shall have but an *Indian Pagod*, a frightful, terrible *Idol of Arbitrary Power*, delighting in *Humane Sacrifices*, and only Adorable for Averting that *Mischief*, with which it threatens us.

But *Contraria juxta se posita magis elucescunt*: *Contraries illustrate each other*. We have hitherto Treated the Reader with *Doleful Narratives* of *Lewd Judges*: Let us now (briefly) Entertain him

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with an Account of some Good and Imitable Ones; *Memoria Justitiae in Aeternum.*

In the Reign of King H. 4. His Son and Heir-apparent (then a *Wild Youth*, but afterwards as Solid, and Renowned a King, as most that have sway'd the *English Scepter*) hearing that one of his Companions was Arraigned for Felony before the Lord Chief Justice of *England* (I am sorry my narrow Reading has not brought me acquainted with his Honourable Name) came to the Bar, and offered to take away the *Prisoner* by force; but being withstood by the said Chief Justice, stepped to him, and Struck him over the Face; whereat the Judge nothing daunted, rose up, and with a Gravity becoming his Dignity, told him, That he did not this Affront to *Him*, but to the King his *Father*, in whose Place he sat; and therefore, forthwith Committed him to Prison. The Prince Overaw'd with the Majesty of the Sage Judge's Expressions, calmly Suffered himself to be carried away by an ordinary *Tip-Staff*; which being told the King, He not a little Rejoyced, both that he had a Judge of such Courageous Integrity; and a Son of such Submissive Obedience to his Laws, *Vide Baker fol. 163.*

The Famous Queen *Elizabeth*, having required a Charge upon divers of Her Subjects, by particular Letters from the Lords of Her Council, of several Sums of Money, for present Aid towards Her Wars in *Ireland*; hearing that one of Her Judges, viz. Mr. Justice *Walmesley*, being conven'd before the said Lords, for Non-Payment thereof, thereby Discouraging others; had Answered, That it was *Contrary to Law* that the same should be Imposed, there being an Express *Statute* against it; which He being a Judge, was bound by his Oath, to signify to Her Majesty, he being (as much as in him lay) a Conservator of the *Queens Oath* in that behalf; Her Majesty was much Offended, that any such Imposition had been pretended to, and Commanded that it should be stopped from further Gathering; and to such as had paid it, their Money, by Her express Order, was Restored. *Judge Crooks Argument in Hampden's Case, p. 57.*

In the 29th. of the same Queen, Her Majesty having Erected a New-Office in the *Common-Pleas*, for making of *Superfedeas* on *Exigents*, She Grants it to one *Cavendish* Her Servant; lends to have him admitted, but the Judges delay the doing thereof, On this Reason, because the *Prothonotaries*, and *Philizers* Claimed the making

making those Writs. The Queen sends a *Sharp* Letter, and Commands them forthwith to Admit him: Then She sends a more positive Command, requiring the Reason of their Contempt and Disobedience. The Judges return the beforementioned Reason to the Lord Keeper, and Earl of Leicester (no mean Man in those Days) upon which, the Queen sends a *Fourth* Peremptory Message for their Admitting him, with this Reason: That if the others were put out, they were Rich, and Able Men, and that Her Courts of Justice were Open, where they might Demand their Right; for this was not to debar them *Therefrom*, but only to put them to their *Elion*. The *Honest* Judges returned this Answer, That the Queen had taken Her Oath, for the due Execution of Justice *According to Law*, and they did not doubt, but when Her Majesty was Informed it was against the Law, She would Act therein as became her. For their own parts, they had taken an Oath to God, to Her, and the **Common-Wealth**; And if they should do it without *Process* of Law before them, and only upon Her Command put the others out of Possession, though the Right remained to them, it were a Breach of their Oath; and therefore, if the Fear of God were not Sufficient, they told Her the Punishment, that was Inflicted upon their *Predecessors* for Breach of their Oaths (citing *Thorpe*, &c.) might be a sufficient *Warning* to them: Whereupon the Queen hearing these Reasons, was Satisfied; and the said Judges heard no more of this Business.

To Descend nearer our own Times, we cannot omit that grand Example of *Uprightness*, the ever Famous Sir Matthew Hale; late Lord Chief Justice of the King's-Bench; a *Miracle* for all other parts of *Polite* and *Serious* Learning, as well as profound Knowledge in the *Laws* of *England*. Of whom I shall yet, not offer any particular *Instances*, since his whole Life was one continued Thred of *Sincere*, and *Understanding* Justice: For as easily you might have jostled the *Sun* out of the *Ecliptick*, as to have warp'd him from his constant Road of *Integrity*. An exact *Standard* whereby *Future Princes* may measure the Qualifications of their Judges; for though he were a most *Loyal*, and *Zealous* Servant to the *Crown*; yet he was so far from being ever *Impeached* by the *Representative Body* of the Nation, that no one *Single Person* (no not of those that were *Cast* before him) were ever heard to complain of his Conduct.

And if any *Latter* Judges have been dismiss'd by false Tales of
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Sycophant *Whisperers*, or for opposing base *Illegal Arbitrary Interests*, as they have the Invaluable Satisfaction of a good *Conscience* for their Comfort; so they may be assured, they still appear more Glorious in the Eyes of all good *English-Men* at present, and will be Recorded more Venerable to Posterity, than any *Robes* or *Prefement*, sullied with *Bribery*, *Flattery*, or *Treacherous Compliances*, could render them.

However, we hope the *Various Examples*, we have here Enumerated from Authentick *Records*, and *Histories*, may be sufficient to Deterr future *Judges* from Ill Courses; and satisfy all the World, both in the *Justice* of the Parliaments late Proceedings in this Case, and the *Reasonableness* of their *Vote* and intended *Bill*, That *Judges* henceforth should hold their Places, and Salaries, not *Ad Placitum*, but *Quam Diu se bene gesserint*. Which was the principal Aim of these Papers. *Fiat Justitia.*

F I N I S.
